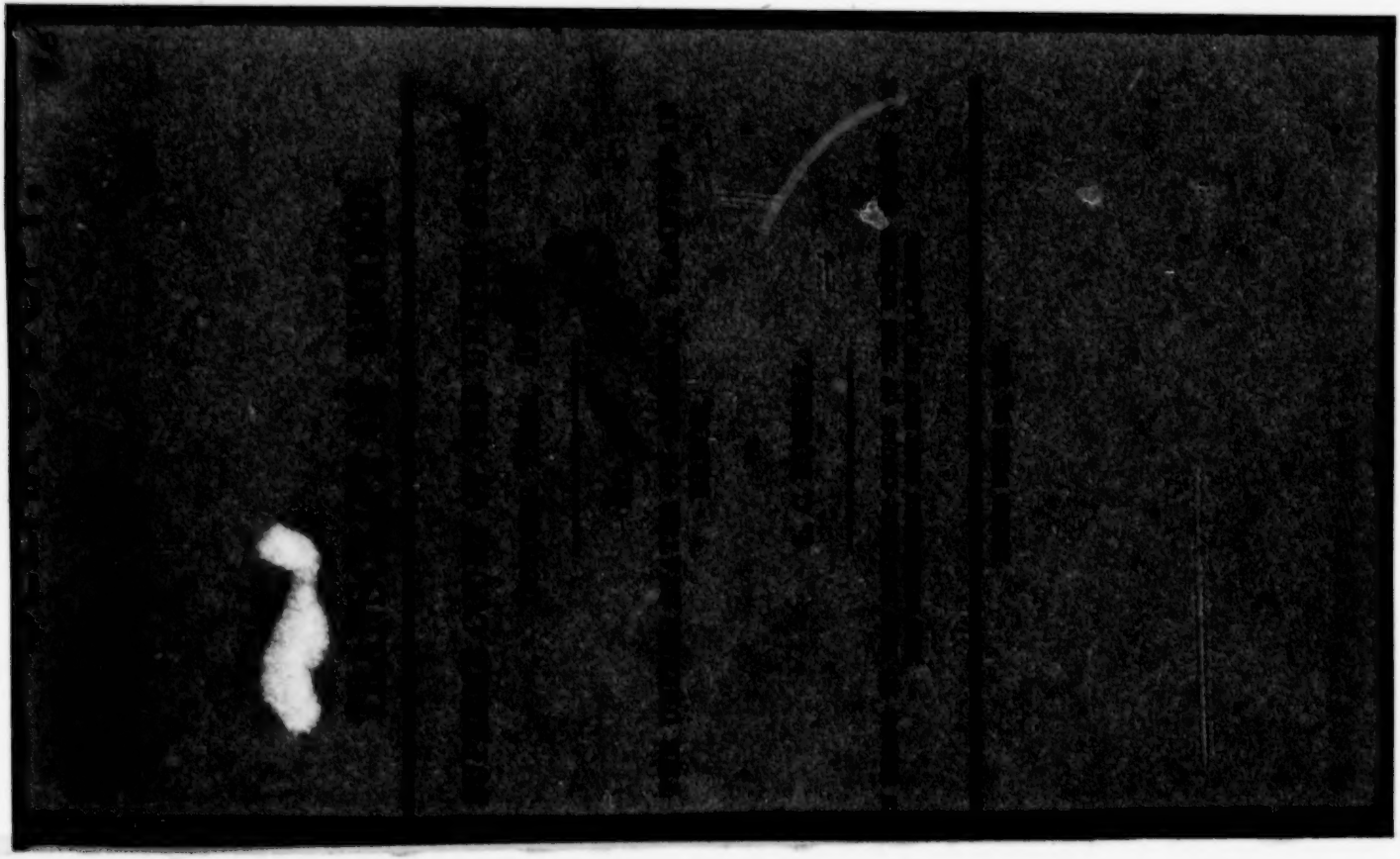

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1919.

No. 457.

THE UNITED STATES OF AMERICA, PLAINTIFF IN ERROR,

vs.

L. C. RUSSELL.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

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1 Pleas had at a regular term of the District Court of the United States for the Eastern Division of the Northern District of Illinois, begun and held at the United States courtrooms, in the city of Chicago, in said division and district, on the first Monday of May (it being the 5th day thereof), in the year of our Lord one thousand nine hundred and nineteen, and of the Independence of the United States of America the 143rd year.

Present the Honorable Kenesaw M. Landis, judge of said court, presiding; John J. Bradley, United States marshal for said district; and T. C. MacMillan, clerk of said court.

2 Be it remembered that heretofore, to wit, on the 1st day of May, A. D. 1918, the following order was had and entered of record in Case Number 6311, wherein The United States of America is plaintiff and L. C. Russell is defendant, in the District Court of the United States for the Eastern Division of the Northern District of Illinois, before the Honorable Kenesaw M. Landis, judge, to wit:

THE UNITED STATES *vs.* L. C. RUSSELL.	6311.

Comes the grand jury this day and returns in open court an indictment against L. C. Russell, the defendant herein, whereupon on motion of the United States attorney it is ordered by the court that said indictment be filed and the cause placed upon the dockets of this court, and the amount of the bail bond be fixed at the sum of twenty thousand dollars, and that a bench warrant be awarded for the defendant.

3 In the District Court of the United States of America for the Northern District of Illinois, Eastern Division.

Of the April term, in the year 1918.

First count.

NORTHERN DISTRICT OF ILLINOIS,
Eastern Division, ss:

The grand jurors for the United States of America, empaneled and sworn in the District Court of the United States for the Eastern Division of the Northern District of Illinois at the April term thereof, in the year nineteen hundred and eighteen, and inquiring for said division and district, upon their oath present, that L. C. Russell, whose Christian name is to said grand jurors unknown, late of the city of Chicago, in said division and district, on April 1, 1918, at Chicago aforesaid, in said division and district, unlawfully did corruptly endeavor to influence one William D. Russell, who, as said L. C. Russell then and there well knew, was then a

petit juror in said court, in the discharge of his duty as such petit juror, and this in the manner and by the means following, that is to say:

Said William D. Russell, as said L. C. Russell then well knew, had been summoned to attend as a petit juror of said court on April 3, 1918, at which time the trial of William D. Haywood and others, upon indictment No. 6125, was to begin in said court. Endeavoring to ascertain in advance of the examination of said William D. Russell in said court as to his qualifications to sit as a petit juror at said trial whether said William D. Russell was favorably inclined towards said William D. Haywood and his codefendants, and corruptly to induce said William D. Russell to favor the acquittal
4 of said William D. Haywood and his codefendants in case he should be selected as a petit juror at said trial, said L. C. Russell, on said April 1, 1918, called at the home of said William D. Russell at No. 604 West Thirty-first Street, in said city of Chicago, and engaged Lucy Russell, wife of said William D. Russell, in a conversation, in the course of which said L. C. Russell told said Lucy Russell that he represented said William D. Haywood and his codefendants and requested her to question her husband as to his attitude towards said William D. Haywood and his codefendants in the matter of the charges contained in said indictment and report the result of such questioning to him, the said L. C. Russell, because, as said L. C. Russell then and there stated to said Lucy Russell, they (meaning said William D. Haywood and his codefendants) did not want to pay money to any of the petit jurors sitting at the trial of said case unless they knew such petit jurors would favor their acquittal; by means of which request and statement said L. C. Russell conveyed to Lucy Russell, and endeavored to convey to said William D. Russell, an offer to pay money to said William D. Russell in return for his favoring such acquittal; against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Second count.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said L. C. Russell, on said April 1, 1918, at Chicago aforesaid, in said Eastern Division of said Northern District of Illinois, in and by the doing of the things charged against him in the first count of this indictment under the circumstances and in manner and form as set forth in said first count, the allegations of which said first count in that behalf are incorporated
5 in this count as fully as if they were here repeated, unlawfully did corruptly influence, obstruct and impede the due administration of justice in said District Court of the United States for said division and district in the matter of the trial of said William D. Haywood and his said codefendants, he the said L. C.

Russell, then and there well knowing that said William D. Russell had been summoned to attend such court as a petit juror, that said trial was about to begin, and that thereby justice was being and was to be administered in said court; against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

CHARLES F. CLYNE,
United States Attorney.

(Endorsed:) No. 6311. United States District Court, Northern District of Illinois, Eastern Division. The United States of America vs. L. C. Russell. Indictment Vio. Sec. 135 C. C. Influencing petit juror and obstructing justice. A true bill. Leonard A. Smith, foreman. Filed in open court this 1st day of May, A. D. 1918. T. C. MacMillan, clerk. Bail $.....

6 And afterwards, to wit, on the 1st day of May, A. D. 1918, there was issued out of and under the seal of said court, in the above-entitled cause, a bench warrant, same being in the words and figures following, to wit:

The President of the United States of America, to the marshal of the Northern District of Illinois, greeting:

You are hereby commanded that you take L. C. Russell if he shall be found in your district, and him safely keep, so that you have his body forthwith before the judge of the District Court of the said United States for the Northern District of Illinois, at Chicago, in the Eastern Division of the said district, to answer unto the said United States in an indictment pending in the said court against him for violation of section 135 of the Criminal Code of the United States at Chicago on April 1, 1918, by unlawfully and corruptly endeavoring to influence William D. Russell, who was then and there a juror in the District Court of the United States for the Northern District of Ilinois engaged in the trial of the cause numbered 6125, entitled The United States vs. William D. Maywood, et al. to favor the acquittal of the defendants in said cause, and have you then and there this writ, with your return hereon.

Witness, the Hon. Kenesaw M. Landis, judge of the District Court of the United States of America for the Northern District of Illinois, at Chicago, aforesaid, this 1st day of May, in the year of our Lord, nineteen hundred and eighteen, and in the 142nd year of the Independence of the said United States.

[Seal of the Court.]

T. C. MACMILLAN,
Clerk.

7

8 (Endorsed:) No. 6311. District Court of the United States, Northern District of Illinois. United States of America vs. L. C. Russell. Bench warrant. Returnable forthwith. T. C. MacMillan, clerk.

I return this writ unexecuted, being unable to find L. C. Russell within my district this 8 day of July, A. D. 1918.

JOHN J. BRADLEY,
U. S. Marshal.
By HENRY L. DEIKE,
Deputy.

Filed Jul. 8, 1918, at — o'clock — m. T. C. MacMillan, clerk (B).

9 And afterwards, to wit, on the 12th day of July, A. D. 1918, there was filed in the clerk's office of said court, in the above entitled cause, a præcipe of U. S. attorney for certified copy of indictment and bench warrant; same being in the words and figures following, to wit:

In the District Court of the United States of America for the Northern District of Illinois, Eastern Division.

UNITED STATES OF AMERICA
v.
L. C. RUSSELL. } No. 6311.

Præcipe.

To Hon. T. C. MACMILLAN,
Clerk of said court:

Please prepare for me a certified copy of the indictment and bench warrant in the above-entitled case for the apprehension of the above-named defendant.

CHARLES F. CLYNE,
U. S. Attorney.

(Endorsed:) No. 6311. U. S. *vs.* L. C. Russell. Præcipe of U. S. Atty. for certified copy of indt. and bench warrant. Filed July 12, 1918. T. C. MacMillan, clerk.

10 And afterwards, to wit, on the 12th day of September, A. D. 1918, following order was had and entered of record in said cause, before the Honorable Kenesaw M. Landis, judge, to wit:

THE UNITED STATES
vs.
L. C. RUSSELL. } 6311.

Comes the United States by United States attorney; comes also the defendant L. C. Russell, in his own proper person and the defendant being arraigned upon the indictment filed herein against him pleads not guilty thereto, whereupon it is ordered by the court that this cause be continued.

11 And afterwards, to wit, on the 19th day of November, A. D. 1918, the following order was had and entered of record in said cause before the Honorable Kenesaw M. Landis, judge, to wit:

THE UNITED STATES
vs.
L. C. RUSSELL. } No. 6311.

Comes the United States by United States attorney; comes also the defendant in his own proper person and by leave of court first had and obtained withdraws his plea of not guilty heretofore entered herein with leave to file a demurrer to said indictment.

12 And afterwards, to wit, on the 19th day of November, A. D. 1918, there was filed in the clerk's office of said court in the above-entitled cause a demurrer to indictment, same being in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern District of Illinois, Eastern Division, ss:

In the District Court of the United States for the Northern District of Illinois, Eastern Division.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
L. C. RUSSELL, DEFENDANT. } No. 6311. Criminal.

Demurrer to indictment.

And the said defendant, L. C. Russell, by Otto Christensen, his attorney, comes now and says that the said indictment, and each and every count thereof, and the matters and things therein contained, are, as therein and thereby set forth and alleged, not sufficient in law to compel him, the said defendant, to answer thereunto, for that—

1. That said indictment does not, nor does either count thereof, state facts sufficient to constitute a public offense against the United States under the laws thereof.

2. That said indictment, and each and every count thereof, is and are uncertain, indefinite, and insufficient, in that it does not appear in or by said indictment, nor any count, paragraph, sentence, or line thereof, by any sufficient averment or recital, by jurisdictional facts, that any cause involving any issue of fact triable by a jury, was at the time in said indictment mentioned, pending in the district court of the United States, or any other court, whereby the above-named United States District Court does or could acquire jurisdiction in the premises.

3. That said first count of said indictment does not, nor does
13 any paragraph, sentence, or line thereof, state facts sufficient to constitute an offense under the laws of the United States.

4. That said first count of said indictment is indefinite, uncertain and ambiguous in this:

(a) That it can not be ascertained from said first count, nor from any paragraph, sentence or line thereof, whether or not the alleged juror, William D. Russell, did as a matter of truth and of fact, at the time and place alleged in said indictment, possess the necessary statutory qualifications to act as juror in said or any court.

(b) That it can not be ascertained from said first count, nor from any paragraph, sentence or line thereof, whether or not the alleged juror, William D. Russell, had, as a matter of truth and of fact, at the time and place alleged in said indictment, been duly and regularly drawn and summoned to act as a juror.

(c) That it can not be ascertained from said first count, nor from any paragraph, sentence or line thereof, whether or not, at the time of the alleged conversation attempted to be set forth in said indictment herein, the alleged juror, William D. Russell, had been examined and accepted as a juror at the array.

(d) That it can not be ascertained from said first count, nor from any paragraph, sentence or line thereof, at what time and at what place the alleged conversation attempted to be set up in said indictment was had.

(e) That it can not be ascertained from said first count as a whole, nor from any line, sentence or paragraph thereof, at what time and at what place, the said Lucy Russell received the impression as to the meaning and support of the alleged conversation attempted to be set up in said indictment.

(f) That it can not be ascertained from said count as a whole nor from any sentence or line thereof, whether or not, as a matter of fact, the said Lucy Russell, at the time of the alleged conversation attempted to be set up in said indictment, did have access to her husband, the alleged juror, William D. Russell, and whether or not, as a matter of truth and of fact, she did have an opportunity or could in any wise whatsover, have communicated the sub-
14 ject matter of the alleged conversation attempted to be set up in said indictment, to the alleged juror, William D. Russell.

(g) That it can not be ascertained from said first count as a whole, nor from any paragraph, sentence or line thereof, whether or not the defendant, L. C. Russell, did know that the said Lucy Russell did have an opportunity to communicate the subject matter of said alleged conversation to the alleged juror, William D. Russell.

(h) That it can not be ascertained from said first count as a whole, nor from any paragraph, sentence or line thereof, whether or not said alleged juror, William D. Russell, was at the time in said indictment mentioned, a juror in any particular case in said or any court.

5. That the second count of said indictment does not, nor does any paragraph, sentence or line thereof, state facts sufficient to constitute an offense under the laws of the United States.

6. That said second count of said indictment is indefinite and uncertain and ambiguous for each and all of the reasons set forth in paragraph four (4) hereof, each and all of said reasons being here referred to and made a part hereof as if herein repeated at length.

7. That the alleged offense attempted to be set up in the second count of said indictment, is repugnant to the alleged offense attempted to be set up in the first count thereof, in that the alleged offense attempted to be set up in said first count shows at most but an arbortive attempt to commit the alleged offense set up in said first count, while said second count attempts to set up a completed offense, predicating, however, the said alleged completed offense upon the facts, matters and things in said first count contained, which are manifestly contradictory to an allegation of a completed offense.

8. For that said second count of said indictment is double and multifarious in that it attempts to set forth two distinct and several offenses, in this, that it is there charged that said defendant did corruptly influence the due administration of justice, and in one and the same count charged that said defendant did obstruct and impede the due administration of justice, the same being wholly separate and distinct alleged offenses, and require wholly distinct kinds and classes of evidence to establish or combat the allegations thereof.

9. That said second count of said indictment is further vague, uncertain, indefinite and insufficient, in that the same is predicated upon a charge, to wit: That said defendant did obstruct and impede the due administration of justice in said District Court of the United States for said division and district, said charge being wholly based upon the recital of the supposed facts, matters and things in said first count mentioned, wherein said charge of said second count is repugnant, as said supposed facts, matters and things in said first count mentioned set forth no matter or manner of force or violence or menace thereof, whereas said charge of obstructing and impeding necessarily imply the use or menace of force and violence.

And this the said defendant is ready to verify, wherefore he prays judgment, and that he be dismissed and discharged of the said indictment.

OTTO CHRISTENSEN,
Attorney for said defendant.

(Endorsed:) Gen'l No. 6311. District Court of the United States, Northern District of Illinois, Eastern Division. The United States of America, plaintiff, vs. L. C. Russell, defendant. Demurrer to indictment. Filed Nov. 19, 1918, at — o'clock — M. T. C. MacMillan, clerk.

16 And afterwards, to wit, on the 6th day of May, A. D. 1919, the following order was had and entered of record in said cause, before the Honorable George A. Carpenter, judge, to wit:

THE UNITED STATES
vs.
L. C. RUSSELL. } 6311.

This cause coming on to be heard upon the demurrer of the defendant to the indictment filed herein against him come the parties by their attorney and after hearing arguments of counsel to conclusion the court being not sufficiently advised in the premises, takes time to consider.

17 And afterwards, to wit, on the 27th day of May, A. D. 1919, the following order was had and entered of record in said cause, before the Honorable George A. Carpenter, judge, to wit:

UNITED STATES
vs.
L. C. RUSSELL. } 6311.

This cause coming on again to be heard upon the demurrer of the defendant to the indictment filed herein against him, come the parties by their attorneys and the court having taken time to consider and being now fully advised in the premises, it is ordered by the court that said demurrer be and the same hereby is sustained and that the indictment herein be and the same hereby is dismissed, to which order of the court the plaintiff, by its attorney, duly excepts and files herein its assignments of errors and petition for a writ of error and thereupon it is further ordered by the court that a writ of error to the Supreme Court of the United States be, and the same hereby is, allowed.

18 And afterwards, to wit, on the 27th day of May, A. D. 1919, there was filed in the clerk's office of said court, in the above entitled cause, a certificate of district judge; same being in the words and figures following, to wit:

In the United States District Court, Northern District of Illinois.

UNITED STATES OF AMERICA
vs.
L. C. RUSSELL. } No. 6311.

This is to certify that in entering an order on the twenty-seventh day of May, 1919, in the above entitled cause, sustaining the demurrer and dismissing the proceedings, I was of the opinion that there was no statute of the United States making the matters charged in the

indictment a crime. No question of an interpretation of the indictment was involved in my decision.

CARPENTER,
Judge of the United States District Court
for the Northern District of Illinois.

(Endorsed:) No. 6311. U. S. District Court, Northern District of Illinois. United States v. L. C. Russell. Certificate of district judge. Filed May 27, 1919, at — o'clock — M. T. C. MacMillan, clerk.

19 And afterwards, to wit, on the 27th day of May, A. D. 1919, there was filed in the clerk's office of said court, in the above entitled cause, a petition; same being in the words and figures following, to wit:

United States of America, Northern District of Illinois, Eastern Division.

In the District Court thereof, May term, A. D. 1919, *ss:*

UNITED STATES OF AMERICA
v.
L. C. RUSSELL. } No. 6311.

Petition.

To the Honorable GEORGE A. CARPENTER,
Judge of the District Court of the United States
for the Northern District of Illinois, Eastern Division:

Your petitioner, the United States of America, by Charles F. Clyne, United States attorney for the Northern District of Illinois, respectfully represents that on the twenty-seventh day of May, A. D. 1919, at the regular May term, 1919, of said District Court of the United States for the Northern District of Illinois, Eastern Division thereof, a final decision or judgment was entered in said court sustaining the demurrer of the defendant, L. C. Russell, filed to an indictment which the grand jurors of the United States, impaneled and sworn in said District Court of the United States, for said division and district, had returned as a true bill against said L. C. Russell for a violation of section 135 of the Criminal Code of the United States. Your petitioner further represents that the said decision or judgment sustaining said demurrer is based upon the construction of the statute upon which the said indictment is
20 founded, to wit, section 135 of the said Criminal Code.

Your petitioner further represents that as he is advised this court erred in construing said section 135 of the said Criminal Code and erred in sustaining said demurrer because of said construction.

Your petitioner further shows that the act of March 2, 1907, chapter 2564, 34 Statutes at Large 1264, provides "that a writ of error may be taken by and on behalf of the United States from the District or Circuit Courts direct to the Supreme Court of the United States in all criminal cases in the following instances, to wit: From a decision or judgment quashing, setting aside, or sustaining a demurrer to any indictment, or any count thereof, where such decision or judgment is based upon the invalidity, or construction of the statute upon which the indictment is founded."

Wherefore, your petitioner respectfully prays that a writ of error may be granted by this honorable court to your petitioner, authorizing and directing the presentation of the record herein directly to the Supreme Court of the United States as by law provided, and that the clerk of this court be authorized and directed to certify said record to the Supreme Court of the United States as by law provided, to the end that the errors complained of, if any such have occurred, may be duly corrected, and full and speedy justice done in the premises.

CHARLES F. CLYNE,
United States Attorney for the Northern District of Illinois, Attorney for Plaintiff.

Dated: Chicago, Illinois,
May —, A. D. 1919.

21 (Endorsed:) No. 6311. In the District Court of the United States for the Northern District of Illinois, Eastern Division. United States of America vs. L. C. Russell. Petition. Filed May 27, 1919, at — o'clock — M. T. C. MacMillan, clerk. Charles F. Clyne, United States attorney.

22 And afterwards, to wit, on the 27th day of May, A. D. 1919, there was filed in the clerk's office of said court, in the above entitled cause, an assignment of errors; same being in the words and figures following, to wit:

United States of America, Northern District of Illinois, Eastern Division.

In the District Court thereof, May term, A. D. 1919, *ss.*

UNITED STATES OF AMERICA
v.
L. C. RUSSELL. } No. 6311.

Assignment of errors.

Now comes the United States of America by Charles F. Clyne, United States attorney for the Northern District of Illinois, and says that in the aforesaid proceedings and in the decision and judg-

ment of the said court sustaining the demurrer of the defendant, L. C. Russell, to the indictment herein, there is manifest error in this, to wit:

(1) The District Court erred in sustaining the demurrer to the indictment and to each count thereof.

(2) The District Court erred in construing the statute upon which the indictment is founded.

(3) The District Court erred in rendering judgment in favor of the defendant and against the plaintiff, based upon a construction of the statute upon which the indictment is founded.

(4) The District Court erred in entering judgment in favor of the defendant and against the plaintiff.

23 Wherefore the said United States of America, plaintiff, prays that the aforesaid judgment may be reversed.

CHARLES H. CLYNE,
United States Attorney for the Northern District of Illinois, Attorney for Plaintiff.

Dated this — day of May, A. D. 1919.

(Endorsed:) No. 6311. In the District Court of the United States for the Northern District of Illinois, Eastern Division. United States of America vs. L. C. Russell. Assignment of Errors. Filed May 27, 1919, at — o'clock — m. T. C. MacMillan, clerk.

24 And afterwards, to wit, on the 27th day of May, A. D. 1919, there was filed in the clerk's office of said court, in the above entitled cause, a præcipe for writ of error; same being in the words and figures following, to wit:

United States of America, Northern District of Ilinois, Eastern Division.

In the District Court thereof, May term, A. D. 1919, *ss.*

UNITED STATES OF AMERICA
v.
L. C. RUSSELL. } No. 6311.

Præcipe for writ of error.

To THOMAS C. MACMILLAN, Esq.,
Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division.

Please prepare a certified copy of the indictment and the demurrer to said indictment and the record of the court in the above-entitled cause with reference to said demurrer, to be transmitted with a writ of error issued out of the Supreme Court of the United States in conformity with the provisions of the act of March 2, 1907, 34 Stat.

1246, permitting and authorizing the issuance of writs of error in such cases.

CHARLES F. CLYNE,
United States Attorney for the Northern District of Illinois, Attorney for Plaintiff.

25 Dated: Chicago, Illinois, May —, A. D. 1919.

(Endorsed:) No. 6311. The District Court of the United States for the Northern District of Illinois, Eastern Division. United States of America vs. L. C. Russell. Præcipe for writ of error. Filed May 27, 1919, at — o'clock — m. T. C. MacMillan, clerk.

26 And afterwards, to wit, on the 25th day of June, A. D. 1919, there was filed in the clerk's office of said court, in the above-entitled cause, a notice, same being in the words and figures following, to wit:

United States of America, Northern District of Illinois, Eastern Division.

In the District Court thereof, June term, A. D. 1919, *ss.*

UNITED STATES OF AMERICA
vs.
L. C. RUSSELL. } No. 6311.

Notice.

To OTTO CHRISTENSEN, Esq.,
1101–19 South La Salle Street, Chicago, Illinois.

Please take notice that on Wednesday, June 25, 1919, at ten o'clock a. m., or as soon thereafter as counsel can be heard, I shall appear before the Honorable George A. Carpenter, judge of the District Court of the United States for the Northern District of Illinois, in the room usually occupied by him as a courtroom, in the Federal Building, Chicago, Illinois, and ask leave to file a further assignment of error in the above-entitled cause, and for an order directing the issuance of an additional citation to the Supreme Court of the United States, and for an order enlarging the time within which the record in the above-entitled cause shall be filed with the clerk of the Supreme Court of the United States to July 26, 1919; at which time and place you may appear if you so desire.

CHARLES F. CLYNE,
United States Attorney.

Received a copy of the above notice this 24th day of June, A. D. 1919.

27 STATE OF ILLINOIS,
County of Cook, ss:

Nicholas Stolfo, being first duly sworn, on oath deposes and says that he served the attached notice upon Otto Christensen, Esq., at his

office, room 1101 Number 19 South La Salle Street, Chicago, Illinois, on Tuesday, June 24, 1919, before 4 o'clock p. m., by leaving a true copy thereof with Harry L. Solomon, a person in charge of the office of said Otto Christensen, Esq.

NICHOLAS STOLFO.

Subscribed and sworn to before me this 24th day of June, A. D. 1919.

[SEAL.]

WILLIAM A. SMALL,
Notary Public.

(Endorsed:) No. 6311. In the District Court of the United States for the Northern District of Illinois, Eastern Division. United States of America *vs.* L. C. Russell. Notice. Filed Jun. 25, 1919, at — o'clock — M. T. C. MacMillan, clerk.

28 And afterwards, to wit, on the 25th day of June, A. D. 1919, the following order was had and entered of record in said cause before the Honorable George A. Carpenter, judge, to wit:

THE UNITED STATES
vs.
L. C. RUSSELL. } No. 6311.

On motion of the United States of America, by Charles F. Clyne, United States attorney for the Northern District of Illinois, and upon notice duly served upon counsel for L. C. Russell, the defendant in the above-entitled cause, leave is hereby granted the United States of America to file in said cause a further assignment of error; and

It is further ordered that an additional citation to the Supreme Court of the United States be issued in the above-entitled cause.

It is further ordered that the time within which a record in the above-entitled cause should be filed with the clerk of the Supreme Court of the United States be, and the same is hereby, enlarged to and including July 26, 1919.

29 And afterwards, to wit, on the 25th day of June, A. D. 1919, there was filed in the clerk's office of said court in the above-entitled cause a further assignment of errors, same being in the words and figures following, to wit:

In the District Court of the United States of America for the Northern District of Illinois, eastern division.

Of the June term, in the year 1919.

UNITED STATES OF AMERICA
v.
L. C. RUSSELL. } No. 6311.

Further assignment of error.

Now comes the United States of America, by Charles F. Clyne, United States attorney for the Northern District of Illinois, and

says that in the proceedings in the above-entitled cause there is manifest error in this; that the court erred in the decision and judgment sustaining the demurrer to the indictment in said cause, and to each count thereof, based upon a construction of the statute upon which the indictment was founded, in holding that there was no statute of the United States making the matters charged in the indictment a crime.

Wherefore said United States further prays that the aforesaid judgment may be reversed.

CHARLES F. CLYNE,
United States Attorney for the Northern District of Illinois.

Dated this 25th day of June, A. D. 1919.

(Endorsed:) No. 6311. In the District Court of the United States for the Northern District of Illinois, eastern division. United
30 States of America vs. L. C. Russell. Further assignment of error. Filed Jun. 25, 1919, at — o'clock — m. T. C. MacMillan, clerk.

31 And afterwards, to wit, on the 27th day of June, A. D. 1919, there was filed in the clerk's office of said court, in the above entitled cause, an additional præcipe for writ of error; same being in the words and figures following, to wit:

United States of America, Northern District of Illinois, Eastern Division.

In the District Court thereof, June term, A. D. 1919, *ss.*

UNITED STATES OF AMERICA
v.
L. C. RUSSELL. } No. 6311.

Additional præcipe for writ of error.

To THOMAS C. MACMILLAN,
Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division.

Please prepare a certified copy of the record of the court in the above entitled cause, including therein the following:

1. May 1, 1918, order to file indictment and for bench warrant.
2. May 1, 1918, indictment.
3. May 1, 1918, bench warrant and return thereon.
4. July 12, 1918, præcipe for certified copy of indictment.
5. September 12, 1918, plea of not guilty.
6. November 19, 1918, order granting leave to withdraw plea of not guilty and file demurrer.

7. November 19, 1918, demurrer.
8. May 6, 1919, order taking demurrer under advisement.
9. May 27, 1919, certificate of district judge.
10. May 27, 1919, petition for writ of error to Supreme Court.
10-a. May 27, 1919, order sustaining demurrer and dismissing indictment.

32 11. May 27, 1919, assignment of errors.

12. May 27, 1919, præcipe of United States attorney for record.
13. May 27, 1919, writ of error.
14. May 27, 1919, citation.
15. June 25, 1919, notice of motion for leave to file further assignment of error, and for order directing issuance of additional citation, and for enlarging time to file record in the Supreme Court.
16. Order granting leave to file further assignment of error, directing issuance of additional citation, and extending time to file record in the Supreme Court.
17. Further assignment of error.
18. Additional citation.
19. Additional præcipe for writ of error.

CHARLES F. CLYNE,
United States Attorney
for the Northern District of Illinois.

Received copy of additional præcipe for writ of error this 27th day of June, A. D. 1919.

OTTO CHRISTENSEN,
Attorney for Defendant.

(Endorsed:) No. 6311. In the District Court of the United States for the Northern District of Illinois, Eastern Division. United States of America vs. L. C. Russell. Additional præcipe for writ of error. Filed Jun. 27, 1919, at — o'clock — m. T. C. MacMillan, clerk.

33 In the District Court of the United States of America, for the Northern District of Illinois, Eastern Division.

I, John H. R. Jamar, clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be a true, complete, and correct transcript of the record in case Number 6311, wherein The United States is plaintiff and L. C. Russell is defendant, prepared in accordance with præcipe filed herein, as same appears from the originals filed in said cause and now remaining in my custody and control.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at my office, at Chicago, in said district, this 8th day of July, A. D. 1919.

[SEAL.]

JOHN H. R. JAMAR,
Clerk.

34 UNITED STATES OF AMERICA, ss.

The President of the United States to L. C. Russell, Chicago, Illinois, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, D. C., within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for the Northern District of Illinois, Eastern Division, wherein the United States of America is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable George A. Carpenter, judge of the District Court of the United States, this 27th day of May, in the year of our Lord one thousand nine hundred and nineteen.

GEORGE A. CARPENTER,
Judge of the United States District Court
for the Northern District of Illinois.

34½ On this 28th day of May, in the year of our Lord one thousand nine hundred and nineteen, personally appeared Thomas Hennebry before me, the subscriber, a notary public, in the county of Cook, State of Illinois, and makes oath that he delivered a true copy of the within citation to L. C. Russell by delivering a true copy thereof to Otto Christensen, Esq., his attorney, in the aforesaid cause, on said 28th day of May, in the year nineteen hundred and nineteen.

THOMAS HENNEBRY,
U. S. Deputy Marshal.

Sworn to and subscribed the 29th day of May, A. D. 1919.
[SEAL.] WILLIAM A. SMALL,
Notary Public.

(Endorsed:) No. 6311. Supreme Court of the United States. United States of America vs. L. C. Russell. Citation to the Supreme Court of the United States. Filed Jun. 2, 1919, at — o'clock —m. T. C. MacMillan, clerk.

35 UNITED STATES OF AMERICA, ss:

The President of the United States, to L. C. Russell, Chicago, Illinois, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, D. C., within thirty days from the date hereof, pursuant to a writ of error filed in the clerk's office of the District Court of the United States for

the Northern District of Illinois, Eastern Division, wherein the United States of America is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable George A. Carpenter, judge of the District Court of the United States, this 25th day of June, in the year of our Lord one thousand nine hundred and nineteen.

GEORGE A. CARPENTER,
Judge of the United States District Court
for the Northern District of Illinois.

Service of the above citation is hereby accepted by L. C. Russell by Otto Christensen, his attorney.

Dated: Chicago, Illinois, June —, 1919.

36 UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the Honorable the Judges of the District Court of the United States for the Northern District of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said district court before you, or some of you, between the United States of America, plaintiff, and L. C. Russell, defendant, No. 6311, a manifest error hath happened, to the great damage of the said the United States of America, as by its complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, the 27th day of May, in the year of our Lord one thousand nine hundred and nineteen.

[SEAL.]

T. S. MACMILLAN,
Clerk of the District Court of the United States
for the Northern Dist. of Illinois.

Allowed by

CARPENTER,
Dist. Judge.

37 NORTHERN DISTRICT OF ILLINOIS, *ss:*

In obedience to the within writ, I herewith transmit to the Supreme Court of the United States a true and complete transcript of the record and proceedings in the foregoing entitled cause this 8th day of July, A. D. 1919.

JOHN H. R. JAMAR,
Clerk United States District Court,
Northern District of Illinois.

6211. Supreme Court of the United States. The United States of America vs. L. C. Russell. Writ of error. Copy deposited for the defendant in error in the clerk's office, U. S. District Court, Northern District of Illinois.

38 (Endorsed on cover:) File No. 27212, N. Illinois, D. C. U. S. Term No. 457. The United States of America, plaintiff in error, vs. L. C. Russell. Filed July 22d, 1919. File No. 27212.